

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

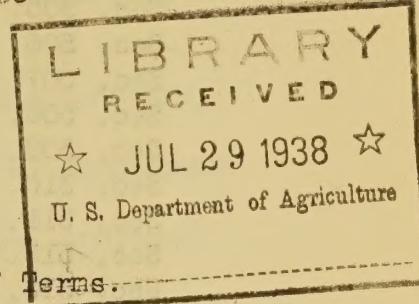
REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING
QUOTAS FOR THE 1938-1939 MARKETING YEAR

Issued July 22, 1938

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REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING

QUOTAS FOR THE 1938-1939 MARKETING YEAR

United States Department of Agriculture

Office of the Secretary.

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I, M. L. Wilson

Acting, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations pertaining to flue-cured tobacco marketing quotas for the 1938-1939 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C.,

this 22nd day of July, 1938.

(S E A L)

Witness may hand and the seal of
the Department of Agriculture.

M. L. Wilson

Acting Secretary of Agriculture

ARTICLE I - GENERAL

Section 101. Definitions. As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires:

Act means the Agricultural Adjustment Act of 1938 and any amendments thereto.

Administrator means the Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

County Committee means the county committee utilized under the Act.

County Office means those persons or committees in the county who, under authorization by the Secretary of Agriculture, are responsible for the local administration of the Act.

Dealer means a person who engages, to any extent, in the business of acquiring tobacco from producers; but no warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

Farm means the farm for which the marketing quota was established.

Farm Marketing Quota or Quota means a flue-cured tobacco marketing quota established for a farm under Section 313 of the Act.

Field Assistant means a field assistant of the Agricultural Adjustment Administration, United States Department of Agriculture.

Flue-Cured Tobacco means tobacco classified in Service and Regulatory Announcement numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 11, 12, 13 and 14, and collectively known as flue-cured tobacco.

Marketing means the first bona fide disposition by sale, barter, or exchange. "Market" and "Marketed" shall have corresponding meanings to the term "marketing".

Marketing Card or Card means a marketing card (Form 38-Tobacco 14) issued for a farm pursuant to the regulations.

The 1938-39 Marketing Year means the period beginning with the 1st day of July 1938, and ending with the 30th day of June 1939.

Memorandum of Sale means a Form 38-Tobacco 17 in the case of warehouse sales and a Form 38-Tobacco 18 in the case of non-warehouse sales.

Non-Warehouse Sale means a marketing other than a warehouse sale.

Operator means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

Person means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

Pound means that amount of tobacco which, if weighed in its unstemmed form and in the condition with respect to its moisture content in which it is usually delivered by a grower, would equal one pound standard weight.

Producer means a person who, as owner, landlord, tenant, sharecropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

Regulations means these Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-39 Marketing Year.

Share of Tobacco means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

Tobacco means flue-cured tobacco.

Tobacco Available for Marketing from a Farm means all tobacco produced on the farm, which was not marketed (or otherwise disposed of) prior to the beginning of the 1938-39 marketing year; but shall not include any such tobacco which was destroyed before its marketing.

Tobacco Section means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

Warehouse means a building or other place at which sales of tobacco, at public auction, are regularly held by a warehouseman during the tobacco marketing season.

Warehouseman means a person regularly engaged in the business of holding sales of tobacco, at public auction, at a warehouse, and during the tobacco marketing season.

A Warehouse Sale means a marketing by sale at public auction on a warehouse floor.

Sec. 102. Instructions and Forms. -- The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions and such forms as may be required to carry out these regulations.

Sec. 103. Gender and Plural Meaning of Terms. -- Any term used in the masculine or in the singular shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

ARTICLE II - FARM MARKETING QUOTAS

Section 201. Establishment of Farm Marketing Quota. The quota for a farm shall be determined and established in accordance with the "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938" (Form 38-Tobacco 11) issued by the Secretary of Agriculture June 16, 1938, as amended. [Act, Sec. 313]

Sec. 202. Publication, Notice, Review. The publication, notice and review of quotas as established shall be in accordance with the "Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton and Rice Established under said Title and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38-AAA-2), issued by the Secretary of Agriculture.

Sec. 203. Rights of Producers in Quota. Each producer having a share in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota his share of such tobacco; provided that if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota only that proportion of his share of such tobacco which the quota is of the total quantity of such tobacco. [Act, Sec. 375]

Sec. 204. Successors in Interest. Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to extent of such succession, have the same rights as the producer in the quota. [Act, Sec. 375]

Sec. 205. Marketing Card for Every Quota. There shall be issued for each farm to which a quota is allotted a marketing card (Form 38-Tobacco 14) as evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Article IV. [Act, Sec. 373 and 375]

Sec. 206. Marketings Charged against Quota. Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38-Tobacco 17 or 18) covering such marketings are issued; provided that a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38-Tobacco 25) such marketing consists of tobacco (a) marketed subject to penalty, or (b) marketed solely for nicotine or other by-product uses, or (c) grown for

experimental purposes only by a publicly owned experiment station.
[Act, Sec. 314, 372 and 375]

ARTICLE III - MARKETING OF TOBACCO AND PENALTIES

Section 301. A Memorandum of Sale to be Obtained for Every Marketing. Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38-Tobacco 17 in the case of warehouse sales and Form 38-Tobacco 18 in the case of non-warehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a non-warehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38-Tobacco 18 as to the facts of the marketing is signed by the buyer and the producer (or by the producer alone if the marketing is made directly to a person outside of the United States.) [Act, Sec. 373 and 375]

Sec. 302. Effect of Memorandum of Sale. A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face, may show, and, if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment of the penalty upon a marketing to check carefully the entries in the memorandum of sale issued to cover the marketing and the records upon which such memorandum was based. Any errors should be brought immediately to the attention of the field assistant for correction. The failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries. [Act, Sec. 314 and 375]

Sec. 303. Marketings Free of Penalty. Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that

- (a) Such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall (on Form 38-Tobacco 27) designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

- (b) Such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38-Tobacco 25 by the by-product manufacturer and the producer; or
- (c) Such tobacco was grown for experimental purposes only by a publicly owned agricultural experiment station and is so identified by a certificate made on Form 38-Tobacco 25 by an authorized representative of the experiment station and the producer.

[Act, Sec. 314, 372 and 375]

Sec. 304. Marketings Subject to Penalty. (a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to section 303 of these regulations as tobacco the marketing of which was free of penalty.

(b) If a memorandum of sale has not been issued to cover a marketing of tobacco such marketing shall be deemed to be a marketing which was subject to penalty. [Act, Sec. 314, 372 and 375]

Sec. 305. Amount of Penalty. The penalty upon any marketing of tobacco subject to penalty shall be 50 per centum of the market price of such tobacco on the date of marketing or 3 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evidence of the market price on the date of marketing where accompanied by a warehouse bill in the case of warehouse sales, or in the case of non-warehouse sales where verified by the certificate (on Form 38-Tobacco 18) of the buyer and the producer. [Act, Sec. 314]

Sec. 306. Persons to Pay Penalty and Deduction from Purchase Price. (a) If the tobacco is marketed by the producer through a warehouseman (or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid by the warehouseman (or such other agent); but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in subsections (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale. [Act, Sec. 314]

Sec. 307. Payment of Penalties. Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.), not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

- (a) in the case of a warehouseman, by his report on Form 38-Tobacco 19, or
- (b) in the case of a dealer, by his report on Form 38-Tobacco 22, or
- (c) in the case of a producer, by his statement showing the number of pounds sold, the market price thereof and the person outside the United States to whom sold.

The remittance may be made by draft, money order or check, payable to the order of the Secretary of Agriculture, but any such draft, money order, or check shall be received subject to payment at par. [Act, Sec. 314 and 372]

Sec. 308. Refund of Penalties. Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations to be prescribed by him. [Act, Sec. 372]

ARTICLE IV - MARKETING CARDS

Section 401. Form of Card. The marketing card (Form 38-Tobacco 14) shall contain the signature, in ink or indelible pencil, of both the person authorized to issue the marketing card and the operator, and a statement of the following:

- (a) The State and county code and serial number of the farm for which the marketing card is issued;
- (b) The number of the marketing card;
- (c) The name and address of the operator;
- (d) The amount of the marketing quota, of, if more than one

marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card, and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota"; and

(e) The date on which the marketing card was issued. [Act, Sec. 373 and 375]

Sec. 402. Persons to issue card. The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and, in the absence of a specific designation, the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated. [Act, Sec. 375]

Sec. 403. Receipt for card. After the marketing card or cards have been duly prepared, they shall be delivered to the operator upon his receipt therefor. There shall be listed in the operator's receipt (Form 38-Tobacco 13), in the appropriate spaces thereon, (a) each marketing card issued for the farm and received by him and the number of pounds for which each such marketing card was issued, and (b) the names of all producers having a share in the tobacco available for marketing from the farm, and (c) the operator's estimate of the number of pounds of tobacco which will be available for marketing from the farm. The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates. [Act, Sec. 375]

Sec. 404. Entries on card. No person other than a field assistant, or a person designated by the Chief of the Tobacco Section, or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card. [Act, Sec. 375]

Sec. 405. Rights of Producers in card. Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm the quantity of such tobacco which he is entitled to market, or to have marketed, under the quota for the farm, as provided in section 203 of these regulations. [Act, Sec. 375]

Sec. 406. Invalid Cards. (a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and manner required in this Article; but such invalid marketing

card shall become valid when returned to the county office and re-issued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of the provisions of Article V; but such invalid marketing card shall become valid when the marketing card has been forwarded to the Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card when returned to the county office shall be replaced by a new marketing card issued for an amount of quota determined as provided in section 409 of these regulations.

(e) The marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when returned to the Tobacco Section, and the necessary corrections have been made under its direction.

(f) The marketing card shall be invalid if it is lost or stolen; but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card as provided in section 408 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) The marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace such destroyed or illegible marketing card as provided in section 408 of these regulations and such destroyed or illegible marketing card shall be permanently invalid. [Act, Sec. 375]

Sec. 407. Invalid Cards Suspended. (a) If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card; unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of section 406 of these regulations. Upon receipt of such notice the Tobacco Section shall notify all field assistant, the operator of the farm, and the county committee of the county where the farm is located, that the marketing card has been suspended for invalidity.

(b) If any such marketing card shall thereafter come into the possession of any field assistant or the county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of section 406 of these regulations. [Act, Sec. 375]

Sec. 408. Duplicate Card to Replace Card Which is Lost, Stolen, Destroyed, or Becomes Illegible. Whenever any marketing card is lost, stolen, destroyed or becomes illegible, the county office shall be notified of the code and serial number, and the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card. Such notice shall be in writing, subscribed by the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of two weeks has elapsed from the time of its receipt of such notice, a duplicate marketing card may be issued by the county office for an amount of quota determined as provided in section 409 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed or became illegible, and shall have written under the marketing number, in large letters, the word "duplicate". The person issuing the marketing card, shall sign the card in the space provided for his signature and shall also sign below the word "duplicate". [Act, Sec. 375]

Sec. 409. Amount of Quota for Duplicate Cards. Whenever the county office issues a duplicate marketing card for any marketing card which has become invalid the amount of quota for which such card shall be issued shall equal whichever of the following amounts is the smaller:

- (a) The unused quota as stated by the operator;
or
- (b) The unused quota as determined by subtracting from the quota for the farm the total marketings from the farm (as shown by memoranda of sale) and the amount of unused quota shown on all other marketing cards issued for the farm; provided that, if no amount is stated by the operator, the amount for which the card shall be issued shall equal the amount determined under (b) above. [Act, Sec. 375]

Sec. 410. Replacement of Old Card. Whenever, on any card, the space for recording marketings becomes inadequate, such marketing card shall be surrendered to the county office, and a new marketing card shall be issued for the amount of the quota remaining unused on the marketing card so surrendered. An appropriate entry shall be made on the surrendered marketing card showing that a new marketing card has been so issued. [Act, Sec. 375]

ARTICLE V - TRANSFER OF QUOTAS

[Act, Sec. 313(d)]

Section 501. Transfer Authorized. A Transfer of quota may be made to another farm only to the extent and in the manner provided in this Article.

Sec. 502. Amount Transferable. The quota for a farm may be transferred only to the extent and in the event that such quota exceeds the sum of (a) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (b) the number of pounds of tobacco marketed from the farm solely for nicotine or other by-product uses, and (c) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

Sec. 503. Place and Person to Make Transfer. Transfers may be made at a warehouse by a field assistant or at the county office by a person authorized to make transfers.

Sec. 504. Transfer direct between Operators or through Warehouseman. Transfers of quota may be made as a result of direct negotiation between the operators of the farms concerned in the transfer; or, subject to the provisions of this Article, an operator may authorize a warehouseman to act as his agent to arrange a transfer of quota.

If the operator of a farm desires to have a warehouseman act for him in arranging a transfer of quota from the farm, the operator shall deliver to the warehouseman his authorization (Form 38-Tobacco 23) and the marketing card for the farm from which the transfer is to be made. Such warehouseman shall then enter in his transfer record book (Form 38-Tobacco 24) the number of pounds of quota to be transferred, and shall present the marketing card and the authorization to a field assistant who shall charge the marketing card with the number of pounds to be transferred by making appropriate entries on the card. The marketing card shall then be returned to the warehouseman, and shall be retained by him until an examination of his transfer records has been made by an authorized representative of the Agricultural Adjustment Administration.

Sec. 505. How Transfer Made. (a) If the transfer is to be made as a result of direct negotiation between the operators of the farms concerned in the transfer, the marketing cards for the respective farms, together with the authorization (Form 38-Tobacco 23) of the operator of the farm from which the transfer is to be made, shall be presented to a representative of the Agricultural Adjustment Administration authorized to make the transfer. Such representative shall then charge the marketing card for the farm from which the transfer is to be made, and credit the marketing card for the farm to

the transfer is to be made, with the number of pounds of quota transferred, by making appropriate entries on the respective marketing cards.

(b) If the transfer is to be made through a warehouseman, the warehouseman shall charge on his transfer record book the number of pounds of quota to be transferred, and shall then present his book to the field assistant in lieu of the presentation of an authorization and marketing card for the farm from which the transfer is to be made. The field assistant shall then credit the marketing card for the farm to which the transfer is made with the number of pounds transferred by making appropriate entries on such card.

Sec. 506. AAA Record of Transfer. A representative of the Agricultural Adjustment Administration who makes any transfer entries on a marketing card shall make a record thereof on Form 38-Tobacco 15.

Sec. 507. Consideration for Transfer. (a) If a transfer is made as a result of direct negotiation between the operators of the farms concerned in the transfer, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 5 cents per pound for each pound of quota transferred unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If a warehouseman acts as agent in connection with a transfer, the consideration for the transfer shall be a sum computed at the rate of, and at no other rate than, 5 cents per pound for each pound of quota transferred, and shall be paid by the warehouseman to the operator of the farm from which the transfer was made not later than the day next following the making of the transfer.

Sec. 508. Producers' Rights in Transferred Quota. Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer shall be entitled to market, or to have marketed for him, under the transferred quota that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer.

Sec. 509. Distribution of Consideration. The consideration received by the operator for the transfer of any portion of the quota shall be divided by him among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm, unless all such producers agree among themselves to a different division of the consideration; provided that, if the quota transferred is quota which was not allotted to the farm but was acquired by transfer, then the consideration shall be divided by the operator among such producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer, unless such producers agree among themselves to a different division of the consideration.

Sec. 510. Conditions of Warehouseman's Agency. No warehouseman shall act as agent for the purpose of arranging transfers of quota; unless

- (a) He has executed an agreement on Form 38-Tobacco 26, and such agreement has been approved by the Chief of the Tobacco Section;
- (b) With respect to each transfer, he has been authorized in writing to arrange the transfer (Form 38-Tobacco 23) by the operator of the farm from which the transfer is to be made; and
- (c) His right to act as agent has not been terminated under the provisions of this Article.

Sec. 511. Warehouseman's Charge for Services. A warehouseman acting as agent may charge the operator of the farm to which he arranges a transfer of quota a sum of not exceeding \$1 for his services in connection with each transfer to the farm; provided that all quota transferred to a farm at the same time, whether transferred from one or more farms, shall be considered as one transfer. No other charge shall be made by a warehouseman for his services in connection with a transfer.

Sec. 512. Warehouseman's Record of Transfers. Every warehouseman who acts as agent in connection with the transfer of marketing quotas shall keep complete and accurate record relative thereto on a transfer record book (Form 38-Tobacco 24). The transfer record book shall be and remain the property of the Secretary of Agriculture, and shall be available at all times for inspection by a representative of the Agricultural Adjustment Administration authorized to make such inspection by the Chief of the Tobacco Section, and upon request by the Chief of the Tobacco Section shall be immediately surrendered to the Secretary of Agriculture by forwarding it to the Tobacco Section, or by delivering it to a representative of the Agricultural Adjustment Administration authorized by the Chief of the Tobacco Section to receive such transfer record book.

Sec. 513. Order of Transfer. A warehouseman who acts as agent shall arrange for the transfer of quotas to farms in the order in which requests for such transfers together with the marketing cards upon which the transfers are to be entered are received by him from producers; provided that he may require requests to be accompanied by a deposit of the consideration (i. e., 5 cents per pound of each pound of quota requested). For the purpose of fixing the order of priority, the warehouseman shall enter in his transfer record book (Form 38-Tobacco 24) in the order in which requests for quota are received by him, the name of the operator and the county code and farm serial number of the farm to which the transfer is requested, the amount of the requested transfer, the amount of the deposit, if any, received.

Sec. 514. Termination of Agency. The warehouseman's right to act as agent shall be terminated by

- (a) Voluntary surrender of the right, or
- (b) Violation of any provision of this Article.

Sec. 515. Effect of Voluntary Termination. If the termination is voluntary on the part of the warehouseman, he shall immediately notify the Chief of the Tobacco Section that he no longer desires to act as agent; and such warehouseman shall proceed as expeditiously as possible to settle all matters relating to the agency.

Sec. 516. Effect of Involuntary Termination as to Warehouseman. If the termination is made by his violation of any of the provisions of this Article, the warehouseman shall immediately forward his transfer record book (Form 38-Tobacco 24) to the Tobacco Section and any interest which the warehouseman may have in any cards then on hand in connection with transfers shall be forfeited and such cards and any authorizations for transfer (Form 38-Tobacco 23) relating thereto shall be turned over forthwith to the field assistant to be forwarded to the Tobacco Section. The Tobacco Section shall cause such publication of the fact of termination as appears necessary to protect the interests of producers.

ARTICLE VI - RECORDS AND REPORTS

[Act, Sec. 373]

Section 601. Warehouseman's Record of Marketing. Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made on his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

Sec. 602. Warehouseman's Record of Transfers. Every warehouseman who acts as agent in connection with transfers of quota, shall, as required in Section 512 of these regulations, keep complete and accurate records relative thereto on Form 38-Tobacco 24.

Sec. 603. Reports from Warehouseman. Every warehouseman shall report daily on Form 38-Tobacco 19, on Form 38-Tobacco 20, and on Form 38-Tobacco 21, those transactions made in his warehouse which are required to be shown on such forms. The report on Form 38-Tobacco 20 shall be delivered to the field assistant at the warehouse at the end of the day for which the report is made. The

reports on Form 38-Tobacco 19 and Form 38-Tobacco 21 shall be sent to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the day next following the day for which the report is made; provided that, if he so elects, the warehouseman may accumulate the reports on Form 38-Tobacco 19 for one calendar week and make his return thereof on or before the end of the calendar week next following the week for which the reports were made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 604. Records of Dealers. Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from which acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

Sec. 605. Reports from Dealers. Except as otherwise provided in Section 606 of these regulations, every dealer shall make a daily report on Form 38-Tobacco 22, of all purchases and sales of tobacco made by him on the day for which the report is made. The reports shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week for which such daily reports are made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 606. Exception for Certain Dealers. Any dealer, who does not purchase or otherwise acquire tobacco except at warehouse sale and who does not resell, prior to the redrying thereof, more than 15 percent of the tobacco purchased by him, shall not be subject to the provisions of section 605 of these regulations; but every such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 607. Records and Reports of Redryers, etc. Every person engaged in the business of redrying, prizing or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with

respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number, of the farm on which the tobacco was grown), the amount of any advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

Sec. 608. Separate Records and Reports from Persons acting in more than one capacity. Any person, who is required to keep any record or make any report as (a) warehouseman, (b) dealer, or (c) processor, or as (d) a person engaged in the business of redrying, prizing or stemming of tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent as to each such business as if he were engaged in no other business.

Sec. 609. Failure to keep record or make report. Any warehouseman, processor or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under this Article or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500.

Sec. 610. Records open to inspection. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers.

Sec. 611. Information Confidential. All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of this Article shall be kept confidential by all officers and employees of the Department of Agriculture and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act.

Form 38-Tobacco 28
Supplement 1

★ Sept. 18, 1938
U. S. Department of Agriculture

Issued September 29, 1938

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

SUPPLEMENT TO REGULATIONS PERTAINING TO FLUE-CURED TOBACCO
MARKETING QUOTAS FOR THE 1938-1939 MARKETING YEAR

Form 38-Tobacco 28, "Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-1939 Marketing Year", is amended as follows:

Section 502 (Article V - Transfer of Quotas) is amended by striking out the period at the end of the said section and inserting in lieu thereof a semi-colon and the following:

"provided, however, that any quota transferred to a farm on or after the 29th day of September, 1938, shall be transferrable from the farm only to the extent of the number of pounds by which the amount of quota previously transferred from the farm is less than 10 percent of the marketing quota established for the farm."

Done at Washington, D. C.,

this 29th day of September, 1938.

(SEAL)

Witness my hand and the seal of
the Department of Agriculture

/s/ Harry L. Brown
Acting Secretary of Agriculture

1.42
155F

Form 38-Tobacco 28-Supplement 2

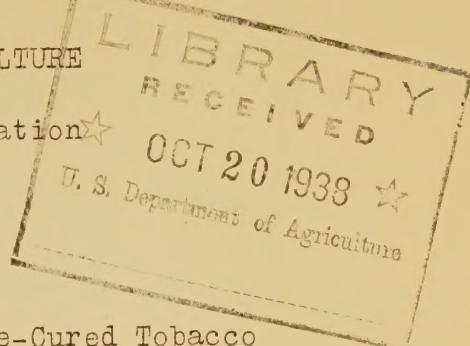
Issued October 7, 1938.

UNITED STATES DEPARTMENT OF AGRICULTURE

Agricultural Adjustment Administration

Tobacco Section

Washington, D. C.



Supplement to Regulations Pertaining to Flue-Cured Tobacco
Marketing Quotas for the 1938-1939 Marketing Year

Form 38-Tobacco 28, "Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-1939 Marketing Year", is amended as follows:

Article III - Marketing of Tobacco and Penalties - is amended by adding at the end of the said article a new section as follows:

"Sec. 309. Tolerance on Farm Scrap Tobacco. -

In computing the penalty upon any marketing of farm scrap tobacco which is subject to penalty, an allowance shall be made of 3 cents per pound on that number of pounds obtained by multiplying the gross weight of the scrap tobacco by the dealer's tolerance factor for the calendar week in which such tobacco was acquired. The dealer's tolerance factor for any calendar week shall be that percentage which the weight of the unmerchantable (except for by-product uses) portion of all the scrap tobacco acquired by the dealer during the calendar week is of the gross weight of all the scrap tobacco acquired by him during such period. The weight of that portion of the scrap tobacco which is unmerchantable shall be the difference between the gross weight of the scrap tobacco minus 5 percent thereof, and the net weight (i.e., its weight after screening and picking). No allowance pursuant to the provisions of this section shall be made unless the dealer establishes the gross and net weight of all scrap tobacco acquired by him, and disposes of that portion of the scrap tobacco which is unmerchantable, to the satisfaction of the Agricultural Adjustment Administration."

Done at Washington, D. C.,
this 7th day of October, 1938.
Witness my hand and the seal of the
Department of Agriculture.

(S E A L)

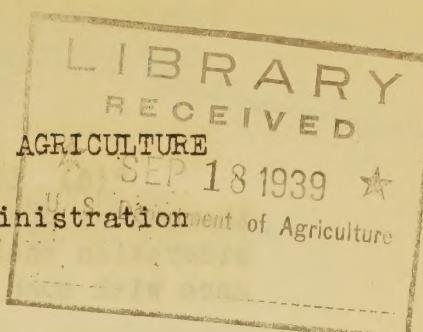
H. A. Wallace

Secretary of Agriculture.

UNITED STATES DEPARTMENT OF AGRICULTURE

Agricultural Adjustment Administration
Tobacco Section

Washington, D. C.



Supplement to Regulations Pertaining to Flue-cured Tobacco
Marketing Quotas for the 1938-1939 Marketing Year

Form 38-Tobacco 28, "Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-1939 Marketing Year", is amended as follows:

Article V - Transfer of Quotas - is amended by striking out Section 509 and inserting in lieu thereof the following:

"Sec. 509. Distribution of consideration. The consideration received by the operator for the transfer of any portion of the quota for the farm shall be divided among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm; except as follows:

"(a) If the amount of tobacco produced on the farm in 1938 was materially affected because of drought, flood, hail, or other adverse weather conditions, or plant-bed or other diseases, such consideration may be divided among the producers on the farm in proportion to what their shares would have been in the amount of tobacco which, except for such abnormal conditions of production, would have been available for marketing from the farm; such amount to be determined by multiplying the planted acreage, or the acreage which would have been planted except for such abnormal conditions, by the farm yield established for the farm pursuant to the 'Instructions for Determination of Flue-cured Tobacco Farm Marketing Quotas for 1938.'

"(b) If there is a loss of tobacco by fire, theft, or other accidental cause, the consideration may be divided among the producers on the farm in proportion to their shares in the tobacco which, except for such loss, would have been available for marketing from the farm.

"(c) If the consideration is received for quota which was not allotted to the farm but was acquired by transfer, the consideration shall be divided among the producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer.

"(d) If all the producers on the farm agree among themselves upon a division of the consideration, the consideration shall be divided among the producers in accordance with such agreement.

"(e) Notwithstanding the provisions of subsections (a) and (b) of this section, if any producer on the farm has marketed, subject to penalty, any portion of his tobacco which might have been marketed within the quota transferred from the farm, such producer shall, to the extent of the tobacco so marketed, be entitled to share in the consideration received for the transfer in proportion to his share in the tobacco available for marketing from the farm.

(SEAL)

Done at Washington, D. C.,
this 7th day of January 1939.

Witness my hand and the seal of
the Department of Agriculture.

/s/ Harry L. Brown
Acting Secretary of Agriculture